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PATENTS
Attorney Docket No. ISA-013.03**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Gary Klinefelter

Application No: 09/752,514

Filed: January 3, 2001

For: METHOD FOR EVALUATING AND
AFFECTING MALE FERTILITY

Art Unit: 1644

Confirmation No.: 9981

Examiner: Nolan, Patrick J.

CERTIFICATE OF MAILING/TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 29, 2005.

By:

Wendy Herron
Wendy Herron

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

11/30/2005 STEUMEL1 00000074 061448 09752514

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Sir:

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(B)**

Applicants respectfully submit this Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. 1.137(b). On December 29, 2004, Applicants timely submitted the Issue-Fee Transmittal for the above-identified application. Applicants authorized payment of all fees due from their deposit account. At the time of access by the PTO, the PTO contends that the Applicants' deposit account contained insufficient funds. A copy of this transmittal is submitted herewith as "Exhibit A" to establish that Applicants acted without intentional delay. Applicants respectfully request that the above-identified application be revived.

Applicants respectfully submit that on September 26, 2005, Applicants' deposit account was charged a total amount of \$1730.00 to cover the issue fee of \$1,400.00,

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publication fee of \$300.00, and a fee of \$30.00 for ten soft copies. Since this date, the above-identified application has issued as U.S. Patent No. 6,965,016.


The Commissioner is hereby authorized to charge the total amount of \$1,500.00 to cover the petition fee to our **Deposit Account No. 06-1448, Reference ISA-013.03**. An extra copy of this Petition is enclosed.

Conclusion

Although we believe that we have appropriately provided for any fees due in connection with this submission, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to our **Deposit Account No. 06-1448, Reference ISA-013.03**.

Respectfully submitted,

Date: November 29, 2005
Customer No: 25181
Patent Group
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NOV 29 2005

PTO/SB/84 (09-04)

Approved for use through 07/31/2008. OMB 0651-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)
ISA-013,03

First named inventor: Gary Klinefelter

Application No.: 09/752,514

Art Unit: 1644

Filed: January 3, 2001

Examiner: Patrick J. Nolan

Title: Methods for Evaluating and Affecting Male Fertility

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity - fee \$_____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$1500.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
the form of PTOL-85 (identify type of reply):

☒ has been filed previously on December 29, 2004.

☐ is enclosed herewith.

B. The issue fee of \$ 1400.00

☒ has been paid previously on 9-26-05
☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/64 (09-04)

Approved for use 07/31/2006, OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE


Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity or \$_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

	11/29/05
Signature	Date
Beth E. Arnold	35,430
Typed or printed name	Registration Number, if applicable
Foley Hoag LLP	617-832-1294
Address	Telephone Number
155 Seaport Blvd., Boston, MA 02210-2600	
Address	

Enclosures: ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☐ Other : _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(A)]

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

11/29/05

Date


Signature

Wendy Herron

Typed or printed name of person signing certificate

[Page 2 of 2]